

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } No. 96-858

PROVIDING FOR THE SETTLEMENT AND PAYMENT OF CLAIMS OF  
CIVILIAN AND MILITARY PERSONNEL AGAINST THE UNITED STATES  
FOR LOSSES IN CONNECTION WITH THE EVACUATION OF SUCH  
PERSONNEL FROM A FOREIGN COUNTRY

MARCH 27, 1980.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. DANIELSON, from the Committee on the Judiciary,  
submitted the following

REPORT

- [To accompany H.R. 6086]

[Includes cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill  
(H.R. 6086) to provide for the settlement and payment of claims of  
civilian and military personnel against the United States for losses in  
connection with the evacuation of such personnel from a foreign coun-  
try, having considered the same, report favorably thereon with amend-  
ments and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2: Strike out lines 5 through 13, and insert:

personal property in a foreign country, incurred on or after  
December 31, 1978, which damage or loss was incident to the  
service of that member, officer, or employee, and

(1) (A) that member, officer, or employee was evacu-  
ated from that country on or after December 31, 1978,  
in accordance with a recommendation or order of the  
Secretary of State or other competent authority which  
was made in response to incidents of political unrest or  
hostile acts by people in that country, and (B) that dam-  
age or loss resulted from that evacuation or from any  
such incident or hostile act; or

(2) that damage or loss resulted from acts of mob vio-  
lence, terrorist attacks, or other hostile acts, directed  
against the United States Government or its officers or  
employees.

And amend the title to read :

A bill to provide for the settlement and payment of claims of United States civilian and military personnel against the United States for losses resulting from acts of violence directed against the United States Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country.

#### PURPOSE

The purpose of the proposed legislation, as amended, is to add a new section 9 to the Military Personnel and Civilian Employees' Claims Act of 1964. The new section would authorize the head of any agency to pay not more than \$40,000 to compensate any member of the uniformed services or any civilian employee of that agency for damage or loss of personal property in a foreign country suffered incident to that individual's service when the individual's damage or loss resulted from either (1) an evacuation of United States personnel in response to political unrest or hostile acts in that country or from any such incident or hostile act, or (2) from acts of mob violence, terrorist attacks or other hostile acts, directed against the United States Government or its officers or employees.

#### STATEMENT

The amended bill would add a new section to the existing Military Personnel and Civilian Employees' Claims Act so as to provide added protection to those covered by the Act who are ordered to evacuate an area in a foreign country because of reasons creating imminent danger to their lives. The new authority would make it possible to compensate United States personnel for property lost, damaged or abandoned in such a situation when the appropriate Government official has authorized an evacuation, and the loss results from that evacuation or was caused by the incident or hostile action which prompted the evacuation. The amended bill would also provide authority to pay for loss or damage to property resulting from mob violence, terrorist attacks or other hostile acts directed against the United States or its personnel. The bill provides a ceiling of \$40,000 on compensable claims to apply to a settlement for the depreciated value of the lost, damaged or abandoned personal property.

The bill provides an effective date of December 31, 1978 for the provisions of the new section and would apply to losses sustained by federal personnel evacuated from Iran in 1979, and in the violence in Pakistan in November of 1979, and in Libya in December of 1979, both of which also prompted evacuations.

The language of the amended bill would make it possible to compensate for losses resulting from mob violence. Mob violence was recently directed against the United States foreign service posts in Pakistan and Libya. While the violence in both of those instances prompted an evacuation, the State Department in testimony before the subcommittee pointed out that personnel might not be evacuated in all such instances. It was pointed out that such events might not lead to an evacuation because of political considerations or because a host government takes immediate steps to prevent recurrence of such incidents. The subcommittee amendment would provide the necessary authority to pay losses in such cases as well so that claims could be con-

sidered for settlement for United States personnel suffering such losses even though there was not an evacuation of personnel.

Since the losses suffered by United States personnel as the result of the Iranian evacuation first demonstrated the need for the authority provided in the bill H.R. 6086, the Committee requested that the State Department outline the events leading up to the evacuation of United States personnel from that Country. The key events supplied the Committee are as follows:

*1978*

November 5: Travel Advisory—Recommended postponement of all non-essential travel to Iran and advised American citizens to remain at home.

December 7: Voluntary temporary departure of official dependents to safe havens was authorized (Embassy did not order evacuation).

December 11: Embassy advised Americans to exercise extreme caution in any movement outside home in view of Ashura mourning period.

December 27: Embassy issued advisory for Americans to limit movement and, if necessary to go out, to stay in northern part of Tehran.

December 31: Embassy announced Phase I of the Emergency and Evacuation Plan. In addition to voluntary departure of dependents already underway, some employees will be ordered to leave and others out of the country will be directed not to return. Embassy coordinating with American companies for safe travel of their employees to airport.

Embassy assured that Iranian Air Force would provide air traffic control during controllers' strike. Iranian Air Force was ready to assist in evacuating Americans from more remote areas to Tehran.

*1979*

January 30: Embassy announced Phase II ordering all USG dependents and non-essential personnel to depart. Recommended that private Americans and companies follow same guidelines.

February 15: Embassy announced Phase Three. Embassy cannot guarantee safety of American citizens, advised departure and explained evacuation procedures.

February 16: Embassy gathered 4-500 Amcits on compound preparing for evacuation on the 17th of February.

February 17-22: Remaining Americans evacuated on 10 USG charter flights.

As is apparent from the list, December 31, 1978 was the significant date relating to the evacuation because that was when the Embassy announced Phase I of the Emergency and Evacuation Plan.

At the hearing held on the bill H.R. 6086 and companion measures on February 6, 1980, it was pointed out that the circumstances which prompted evacuations, and cases where damage resulting from mob violence, terrorist attacks and hostile acts involved instances in which personnel cannot protect their possessions by obtaining insurance. Where employees and military personnel have obtained insurance to protect their belongings in foreign countries, the policies have exclu-

sions for damage resulting from such acts. As a practical matter, for such losses in overseas areas, insurance against the increased risks of loss occasioned by political unrest, civil disorders, and forced abandonment of personal property is simply unavailable. The committee has been advised that, in fact, many Iranian evacuees who thought they had insurance against such risks were shocked and dismayed when they later were informed by their insurance carriers to the contrary.

The committee has concluded that claims arising from overseas evacuation claims need special legislative treatment because of events such as those which occurred in Iran this past year where numerous United States personnel suffered substantial or total losses of their household goods and personal effects. The increased coverage provided in the amended bill would be retroactive to include claims such as those based on losses in Iran occurring after December 31, 1978.

#### BACKGROUND

The Military Personnel and Civilian Employees' Claims Act originated as a bill, H.R. 6910, which was reported by this committee in the 88th Congress [H. Rept. 460, 88th Cong., 1st Session]. That bill was introduced as recommended in an executive communication sent the Congress by the Federal Aviation Agency. It was stated in the communication that in 1952 the Civil Aeronautics Administration, the predecessor to the Federal Aviation Agency, was faced with the problem of obtaining relief for a group of Government employees who suffered personal property losses when Government-owned quarters on Wake Island were destroyed or damaged by a typhoon. The losses suffered by these employees served to emphasize the total lack of authority on the part of the employing agencies in that case to make administrative settlement in an instance where military personnel or civilian employees of the military departments could have been compensated in accordance with the provisions of the Military Personnel Claims Act. This prompted the Civil Aeronautics Administration to recommend legislation which would have the effect of extending similar settlement authority for claims for personal property losses suffered by employees of all Federal agencies.

The provisions of the Military Personnel and Civilian Employees Claims Act of 1964 granted authority for all agencies of the government to settle up to \$6,500 for personal property losses suffered by government personnel incident to their service. In 1965, the Act was amended to permit the military departments to settle claims up to \$10,000.<sup>1</sup> In 1968 the Act was amended to cover District of Columbia employees.<sup>2</sup> In 1970 a requirement for an annual report to Congress was deleted.<sup>3</sup> The limit for payment of claims was increased to \$15,000 as to all agencies of Government.<sup>4</sup>

The enactment of the Military Personnel and Civilian Employees Claims Act of 1964 on August 31, 1964 provided authority to all executive departments and agencies to compensate their personnel for losses of property incident to government service. This type of general authority to compensate personnel for losses incident to their service was first expressed in the Military Claims Act of 1945. That Act authorized

<sup>1</sup> Public Law 89-185, § 3(b), Sept. 15, 1965, 79 Stat. 789.

<sup>2</sup> Public Law 90-561, Oct. 12, 1968, 82 Stat. 998.

<sup>3</sup> Public Law 91-311, July 8, 1970, 84 Stat. 412.

<sup>4</sup> Public Law 93-455, § 1, Oct. 18, 1974, 88 Stat. 1381.

payments to military personnel and civilian employees of the War Department for "damage to or loss, destruction, capture or abandonment of personal property occurring incident to their service . . .". There was no limit provided for the amount of such claims settlements, and the statute had an effective date of December 7, 1939. On December 28, 1945, this authority was extended to personnel of the Department of the Navy and on March 20, 1946, the same authority was granted to the Coast Guard when it was not operating as a part of the Navy.

#### PRIOR STATUTES

The statutes in effect, prior to the enactment of the Military Personnel Claims Act, provided only limited authority for payments of personal property losses. In many cases, the authority to settle claims was obsolete or insufficient. The Military Personnel Claims Act took the place of such statutes and provide for their repeal.<sup>5</sup>

The Military Claims Act of 1945<sup>6</sup> was classified as section 222c through 222h of title 31 of the United States Code.

In 1947 the reference in the section to "Secretary of War" was changed to "Secretary of the Army", and "War Department" to the "Department of the Army."<sup>7</sup> On July 3, 1952, the Act was amended<sup>8</sup> to limit claims which could be settled under its authority to those which did not exceed \$2,500. On August 1, 1953<sup>9</sup> the Act was amended to state that the beginning and end of an armed conflict would be fixed by concurrent resolution or by the President. The provisions of the Military Claims Act of 1945 were revised and enacted as section 2732 of title 10 of the United States Code when that title was codified and enacted into positive law on August 10, 1956.<sup>10</sup> In 1958, the authority for payment of claims in section 2732 was increased from \$2,500 to \$6,500.<sup>11</sup> Section 2732 was repealed by the Military Personnel and Civilian Employees Claims Act of 1964,<sup>12</sup> effective two years from the date of enactment or August 31, 1966. Because of this continued effectiveness in the two year period, the authority for payment of claims was increased to \$10,000 on September 15, 1965 when the Military Personnel and Civilian Employees Claims Act of 1964 was amended to provide for the same \$10,000 limit for claims by personnel of the military departments.

The 1945 Act was enacted to provide a clear, definite, and workable statutory authorization for the payment of claims. The report accompanying the bill H.R. 2068, which was enacted in 1945 as Public Law 67 of the 79th Congress [H. Rept. 23, 79th Cong., 1st Sess.], stated that earlier statutes did not provide for adequate or uniform authority to

<sup>5</sup> Included among the repealed statutes were sections 3483 through 3488 of the revised statutes. These sections had included authority to pay for the loss of horses owned by officers, non-commissioned officers or privates. Another repealed Act was initially passed on March 3, 1885 and amended in 1918 and again in 1921. It provided for payments to any officer and enlisted men for equipment and clothing when it was required by law or regulation that the individual own and use the property in the performance of their duties. The bases for payment were listed and included losses of property because of shipment on an unseaworthy vessel, or those incident to an attempt to save human life or United States property, or destruction to avoid capture. As amended in 1921, the authority was granted to pay Army personnel for the loss of property, while it was transferred by a common carrier transported by a proper agent or agency of the United States.

<sup>6</sup> Act of May 29, 1945, ch. 135, § 1, 59 Stat. 225.

<sup>7</sup> Act of June 26, 1947, ch. 343, 205(a), 61 Stat. 501.

<sup>8</sup> Act of July 3, 1952, ch. 548, § 1, 66 Stat. 321.

<sup>9</sup> Act of Aug. 1, 1953, ch. 303, § 1, 67 Stat. 317.

<sup>10</sup> Act of Aug. 10, 1956, ch. 1041, 70A Stat. 153.

<sup>11</sup> Act of Aug. 23, 1958, Pub. L. 85-861, § 1 (53), 33(a) (16) 72 Stat. 1461, 1565.

<sup>12</sup> Act of Aug. 31, 1964, Pub. L. 88-558, § 5(3), 78 Stat. 768.

compensate military personnel who suffered losses of their personal property. The language of the 1945 Act detailed the limits applicable to such claims. Not only was the lost property required to be incident to the service of the employee or military member, but it was required to be "reasonable, useful, necessary or proper" under the attendant circumstances when related to the service of a member or employee.

#### CLAIMS ADMINISTRATION UNDER THE PRESENT STATUTE

The requirements and purpose referred to in the discussion of the 1945 law have been reflected in the administration of the current statute. The regulations implementing the present statute do not provide for a payment for all property loss and it is clear that the statute and the relevant regulations do not provide the equivalent of full insurance of all property that might be subject to loss or damage. A fundamental aspect of claims settlement under this authority and under this bill is that the property must have a reasonable relevance to the service and activity of the employee or military member in the performance of his duties. At the hearing on the present bill, H.R. 6086, the Air Force testimony emphasized that the Defense Department regulations implementing the statutory mandate require that the quantity and types of property lost be "reasonable, useful or proper under the circumstances". The services have jointly adopted maximum amounts payable for jewelry, antiques, stereos, collections, paintings, and other valuable items. Due care is required of military and civilian members in safeguarding their personal effects, and where a claimant is contributorily negligent in causing the loss, no award is made. Depreciation is deducted consistent with insurance industry standards to arrive at the true value of items claimed. Substantiation of personnel claims is an absolute requirement, and all the military services have well-defined, uniform procedures and trained legal personnel with years of experience in investigating and adjudicating these claims.

Similarly, the Honorable Thomas M. Tracy, Assistant Secretary of State for Administration, who appeared as the State Department witness before the subcommittee on February 6, 1980 at the hearing on this bill, stated that when the authority to reimburse employees for personal property losses was granted to civilian agencies just over fifteen years ago, it was agreed among the three largest foreign affairs agencies—State, AID AND ICA (then USIA)—that the claims program should be administered in such a manner that the employees of those agencies would be treated equally. Accordingly, there are joint regulations which govern the adjudication of claims by all employees of State, AID and ICA. To avoid any possible differences in the interpretation and application of these regulations those agencies have agreed that all claims would be processed and adjudicated at a central office in the State Department. The committee was informed that the joint regulations have provided the means for assuring equitable and uniform claims processing for the large segment of overseas civilian personnel who are employed by these agencies.

On October 18, 1974, section 3 of the Military Personnel and Civilian Employees' Claims Act was amended to provide a limit of \$15,000 for payment of claims for the damage or loss of personal property of Government personnel incident to their service. This is the normally



applicable limit for such claims and will continue to apply to most claims after the enactment of the change proposed in this bill. The increased authority which would be provided by the new section 9 as set forth in this bill, would only apply to claims for the damage or loss of personal property as the result of the events or occurrences stated in that section.

The committee was advised by the Air Force witness at the February 6th hearing that the Defense Department could find no claim for damage or loss incident to service in Iran prior to December 31, 1978 which exceeded the \$15,000 maximum. On the other hand, there were at least 179 instances of loss exceeding the \$15,000 maximum after that date. A summary supplied by the Department of Defense regarding Iran claims which is entitled "Iran Evacuation Claims" is set out at the end of this report.

In Part I of that summary it is shown that 1,294 claims were settled as of December 31, 1979 with payments amounting to \$7,070,237. However, almost 75 percent of this amount, or \$5,280,514, was reimbursed from Iranian funds which were on deposit in this country for the purchase of military goods and services under Foreign Military Sales (FMS) contracts. Therefore, the actual cost to the United States Government was \$1,789,723.

Part II analyzes the claims in categories to show the claims subject to settlement with various limits on the authority which could be made applicable to claims based on losses sustained in the Iranian evacuation.

Part III of the Defense Department summary reflects both the additional amounts that could be paid by the Department of Defense for Iran claims if the maximum for such claims was raised to \$35,000 or \$40,000 and the amounts which could be expected to be reimbursed under Iranian FMS contracts under each of those limits. Thus, if the maximum payable on such claims was raised to \$35,000, the additional net cost to the United States would be \$302,474, but the additional cost to the Government of Iran would be \$893,075. If the maximum payable on such claims was raised to \$40,000, the additional net cost to the United States would be \$322,568, but the additional cost charged against Iranian funds would be \$952,405.

The bill H.R. 6086 provides that the United States is to be subrogated to the rights of a claimant against a foreign country upon payment of a claim. Subsection (e) of new section 9 added to the Military Personnel and Civilian Employees' Claims Act by the amended bill, would provide that when the United States pays a claim under the authority of that section, the United States shall be subrogated to any rights the claimant may have against a foreign Country in which that damage or loss occurred which gave rise to the claim.

Along with its testimony on February 6, 1980 the State Department submitted an analysis of claims based upon losses suffered by civilian personnel both in Iran and in Pakistan. Included in this analysis were the amounts of six State Department claims which exceeded the present \$15,000 limit in the statute. The six claims exceeded that limit by a total of \$134,966.92. The State Department analysis is also set out at the end of this report.

At the hearing on the bill H.R. 6086 and companion measures, the witnesses representing the Departments of State and Defense ex-

pressed the support of those departments for the amendment to the Military Personnel and Civilian Employees' Claims Act which are provided for in the bill.

#### CONCLUSION

The committee has concluded that the testimony presented at the hearing on February 6, 1980 and the information supplied by the State Department and the Department of Defense in addition to that testimony establish a clear basis and define the need for the amendment provided for in the amended bill. Further, the Department of Defense in a communication transmitted to the Congress on October 10, 1979 included a recommendation for an amendment to the Military Personnel and Civilian Employees' Claims Act to provide for authority to pay claims arising as the result of losses incident to an evacuation. As is the case in the bill, H.R. 6086, that communication urged that the proposed legislation include an effective date of December 31, 1978 in order to cover claims arising from the evacuation of Iran. That communication is also set out following this report.

It is urged that the amended bill be considered favorably.

#### OUTLINE OF PROVISIONS OF NEW SECTION 9 ADDED TO THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT BY THE AMENDED BILL

##### SUBSECTION (a)

The subsection provides that, subject to government-wide policy prescribed by the President, the head of any agency may settle and pay claims up to \$40,000 for damage to, or loss of, personal property sustained by employees or uniformed service members on or after December 31, 1978 in a foreign country when the damage or loss was incident to the service of that member, officer, or employee, and

(1) that that individual was evacuated from that country on or after December 31, 1978 in an evacuation authorized by competent authority which was in response to incidents of political unrest or hostile acts in that country, and when the damage or loss resulted from that evacuation or from any such incident or hostile act; or

(2) that damage or loss resulted from acts of mob violence, terrorist attacks, or other hostile acts, directed against the United States Government or its officers or employees.

##### SUBSECTION (b)

The subsection provides for the order and priority of payment of claims in the event the claimant is deceased. The order of payment may then be made to decedent's surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before, concurrently with, or after the decedent's death and the claim is otherwise covered by the authority provided in new section 9.

##### SUBSECTION (c)

The subsection requires that, in order to be considered under the new section, the claim must be presented in writing within 2 years after



the claim accrues, or within one year after the date of the enactment of this bill, whichever is later.

SUBSECTION (d)

Each agency is required to issue regulations governing claims settlement under the new section and the same standards applied in adjudicating a claim under the provisions which govern claims settlement under the other provisions of the Military Personnel and Civilian Employees' Claims Act, and are to apply to settlements under the new section. It is further provided that any claim subject to settlement under new section 9 which has previously been adjudicated under the authority for payment under section 3 of that Act by the applicable head of an agency before the date of the enactment of the amendment shall not be again adjudicated under section 9, but any amount of loss adjudicated under section 3 of the Act in connection with that claim which has not been paid shall be payable to the extent permitted in this section.

SUBSECTION (e)

This subsection provides that when the United States pays a claim under the authority provided in new section 9, it shall, to the extent of the amount of such payment, be subrogated to any right or claim, with respect to the same damage or loss for which the claim under this section was paid, that the claimant may have against the foreign country in which that damage or loss occurred.

[Statements under clause 2(1)(3)(A), clause 2(1)(3)(B), clause 2(1)(2)(B), clause 2(1)(3)(D), clause 2(1)(4), and clause 2(1)(3)(C) of rule XI and clause 3(2) and clause 7(a)(1) of the Rules of the House of Representatives]

COMMITTEE VOTE

(RULE XI, CL. 2(1)(2)(B))

On February 20, 1980, the full Committee on the Judiciary approved H.R. 6086, as amended, by voice vote.

COMMITTEE COST ESTIMATE

(RULE XIII, CL. 7(A)(1))

The bill would provide authority for the United States to compensate government personnel for personal property losses incident to employment in the specific circumstances defined in the new section which would be added to the Military Personnel and Civilian Employees Claims Act. The effect of the bill has been determined by the Budget Office to involve a cost of \$832,000. The future cost would be dependent upon the occurrence of the incident such as evacuations or destruction of property in overseas locations as the result of mob action or terrorist activity.

10

OVERSIGHT STATEMENT

(RULE XI, CL. 2(1)(3)(A))

The Subcommittee on Administrative Law and Governmental Relations of the Committee, in accordance with rule VI(b) of the Rules of the Committee on the Judiciary (96th Cong.), exercises the Committee's legislative and oversight responsibilities with respect to claims against the United States, including the Military Personnel and Civilian Employees' Claims Act of 1964 (78 Stat. 767, 31 U.S.C. 240 et seq.). The favorable consideration of H.R. 6086 was recommended by the subcommittee and the committee has determined that legislation should be enacted as set forth in the bill as amended.

BUDGET STATEMENT

(RULE XI, CL. 2(1)(3)(B))

As has been stated in the Committee Cost Estimate set forth above, H.R. 6086, as amended, the impact on the Budget will be as defined in the report of the Congressional Budget Office, which shows that there would be a potential cost of \$832,000 based upon claims that have been identified to date.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

(RULE XI, CL. 2(1)(3)(C))

The estimate received from the Director of the Congressional Budget Office is as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, D.C., March 25, 1980.

Hon. PETER W. RODINO, Jr.,  
*Chairman, Committee on the Judiciary,*  
*U.S. House of Representatives,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6086, a bill to provide for the settlement and payment of claims of United States civilian and military personnel against the United States for losses resulting from acts of violence directed against the United States Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country, as ordered reported by the House Committee on the Judiciary.

Should the committee so desire, we would be pleased to provide further detail on this cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MARCH 25, 1980.

1. Bill number: H.R. 6086.

2. Bill title: A bill to provide for the settlement and payment of claims of United States civilian and military personnel against the United States for losses resulting from acts of violence directed against the United States Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country.

3. Bill status: As ordered reported by the House Committee on the Judiciary on February 20, 1980.

4. Bill purpose: The purpose of this bill is to raise the maximum payable under the Military Personnel and Civilian Employees Claims Act of 1964 from \$15,000 to \$40,000 in the case of loss or damage resulting from hostile acts directed against the U.S. Government or its employees or resulting from sudden evacuation from overseas stations due to the same type hostile acts. This increase in entitlement is retroactive to December 31, 1978.

5. Cost estimate:

[By fiscal year, in thousand of dollars]

	1981	1982	1983	1984	1985
Function 050:					
Estimated budget authority.....	709				
Estimated outlays.....	709				
Function 150:					
Estimated budget authority.....	123				
Estimated outlays.....	123				

6. Basis of estimate: This estimate assumes enactment by July 1, 1980. The 1980 estimate assumes payment only of those claims already approved by the Department of Defense and Department of State for past evacuations which exceeded the previous \$15,000 limit. The CBO has no basis for forecasting future claims.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimated approved by:

JAMES L. BLUM,

*Assistant Director for Budget Analysis.*

## OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

(RULE XI, CL. 2(1)(3)(D))

No findings or recommendations of the Committee on Government Operations were received as referred to in subdivision (d) of clause 2(1)(3) of House Rule XI.

## INFLATIONARY IMPACT STATEMENT

(RULE XI, CL. 2(1)(4))

In compliance with clause 2(1)(4) of House Rule XI, the Committee states that H.R. 6086, as amended, will have no inflationary impact on prices and costs in the operation of the national economy.

CHANGES IN EXISTING LAW

In compliance with paragraph (2) of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed by black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman) :

MILITARY PERSONNEL AND CIVILIAN EMPLOYEES CLAIMS ACT

PUBLIC LAW 88-558, AS AMENDED, 88TH CONGRESS, 2D SESSION,  
78 STAT. 769, AS AMENDED

AN ACT to provide for the settlement of claims against the United States by members of the uniformed services and civilian officers and employees of the United States for damage to, or loss of, personal property incident to their service, and for other purposes

\* \* \* \* \*

*"Sec. 9. (a) Subject to any policies that the President may prescribe, the head of any agency, or his designee, may settle and pay not more than \$40,000 for any claim against the United States made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency for damage to, or loss of, personal property in a foreign country, incurred on or after December 31, 1978, which damage or loss was incident to the service of that member, officer, or employee, and*

*"(1) (A) that member, officer, or employee was evacuated from that country on or after December 31, 1978, in accordance with a recommendation or order of the Secretary of State or other competent authority which was made in response to incidents of political unrest or hostile acts by people in that country, and (B) that damage or loss resulted from that evacuation or from any such incident or hostile act; or*

*"(2) that damage or loss resulted from acts of mob violence, terrorist attacks, or other hostile acts, directed against the United States Government or its officers or employees."*

*"(b) The head of the agency, or his designee, authorized under subsection (a) to settle and pay a claim of a person described in such subsection may, if such person is deceased, settle and pay any claim made by the decedent's surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before, concurrently with, or after the decedent's death and is otherwise covered by this section. Claims of survivors shall be settled and paid in the order set forth in the preceding sentence.*

*"(c) A claim may be allowed under this section only if it is presented in writing within two years after the claim accrues, or within one year after the date of the enactment of this section, whichever is later.*

*"(d) The head of each agency shall issue regulations to carry out this section. The same standards applied in adjudicating a claim under section 3 of this Act shall be applied in adjudicating a claim under this section. Any claim to which this section applies but which has been adjudicated under section 3 of this Act by the applicable head of an agency before the date of the enactment of this section shall not be adjudicated under this section, but any amount of loss adjudicated*

*under such section 3 in connection with that claim which has not been paid shall be payable to the extent permitted in this section.*

*"(e) Upon payment of a claim under this section, the United States shall, to the extent of the amount of such payment, be subrogated to any right or claim, with respect to the same damage or loss for which the claim under this section was paid, that the claimant may have against the foreign country in which that damage or loss occurred."*

[Information supplied the committee by the Department of State concerning Iran evacuation claims]

*Claims for private personal property losses (State/AID/USICA)*

JANUARY 1, 1979 TO JANUARY 28, 1980

Claims paid:	Amount
State (581)-----	\$743, 124. 31
AID (122)-----	161, 063. 65
ICA (87)-----	66, 463. 92
Total (790)-----	973, 651. 88

Of the above the following were caused by the situations in Iran and Pakistan:

Iran:	Amount
State (64)-----	173, 957. 25
AID (0)-----	—0—
ICA (14)-----	9, 006. 15
Totals (78)-----	182, 963. 40

The adjudicated value of 1 State claim exceeded the \$15,000 limit by \$2,393.83.

Pakistan:	Amount
State (59)-----	203, 233. 91
AID (2)-----	8, 202. 00
ICA (9)-----	20, 667. 65
Total (70)-----	232, 103. 56

The adjudicated value of 6 State claims exceeds the \$15,000 limit as follows:

Amount
\$11, 190. 00
11, 487. 00
26, 900. 40
25, 956. 00
33, 082. 00
26, 351. 92
134, 966. 92

Note: The hostages now held in Tehran will undoubtedly have suffered losses and will file claims. In addition, not all employees who resided on the destroyed compound in Islamabad have submitted claims.

[Information Supplied the Committee by the Department of Defense  
Relative to Iran Evacuation Claims]

*Iran evacuation claims (through December 31, 1979)*

<b>I. Claims paid and direct cost:</b>	
A. Gross cost at \$15,000 limit:	<i>Amount</i>
(1) Army (654 claims)-----	\$3,557,040
(2) Navy and Marine Corps (152 claims)-----	692,869
(3) Air Force (488 claims)-----	2,820,328
Total (1,294 claims)-----	7,070,237
B. Reimbursements from Iran's FMS accounts-----	5,280,514
C. Net expense to U.S. Government (25.3 percent of gross) --	<u>1,789,723</u>
<b>II. Claims with uncompensated losses:</b>	
A. With \$15,000 limit:	
(1) Army (81)-----	555,030
(2) Navy (19)-----	151,685
(3) Air Force (79)-----	624,884
Total (179)-----	<u>1,331,599</u>
B. With \$25,000 limit:	
(1) Army (20)-----	290,096
(2) Navy (19)-----	98,367
(3) Air Force (23)-----	128,231
Total (62)-----	<u>516,694</u>
C. With \$35,000 limit:	
(1) Army (1)-----	30,720
(2) Navy (2)-----	44,423
(3) Air Force (6)-----	60,907
Total (9)-----	<u>136,050</u>
D. With \$40,000 limit:	
(1) Army (1)-----	25,720
(2) Navy -----	0
(3) Air Force (6)-----	30,907
Total (7)-----	<u>56,627</u>
<b>III. Additional cost if limit were raised to:</b>	
A. \$35,000:	
(1) Gross cost-----	1,195,549
(2) Reimbursement, assuming same rate of re-	
imbursement from Iran's FMS account as was	
experienced on payments already made (74.7	
percent) -----	893,075
(3) Net (25.3 percent of gross)-----	<u>302,474</u>
B. \$40,000:	
(1) Gross cost-----	1,274,973
(2) Reimbursement (computed as above)-----	952,405
(3) Net (25.3 percent of gross)-----	<u>322,568</u>



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[Executive Communication]

DEPARTMENT OF THE AIR FORCE,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., October 10, 1979.*

HON. THOMAS P. O'NEILL, JR.,  
*Speaker of the House of Representatives,*  
*Washington, D.C.*

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation, "To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service."

This proposed legislation is part of the Department of Defense Legislative Program for the 96th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this legislation for the consideration of the Congress. The Department of the Air Force has been designated the representative of the Department of Defense for this legislation. It is recommended that this legislation be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to amend Section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended, 31 U.S.C. 241), to increase the limit on payments for losses of, or damage to, personal property incident to federal service from \$15,000 to \$25,000, and to further raise the limitation to \$35,000 in the case of claims arising overseas when competent authority orders evacuation for reasons which create imminent danger to the lives of American personnel covered by the act or their families.

The proposed legislation would raise the present limitations on payment for claims under the Act to a level consistent with rising costs of repair and replacement of personal property damaged incident to the service of military personnel and federal civilian employees. This increased cost is due primarily to the general inflationary trend that has been apparent over the last several years.

A reliable method of calculating the increased cost of repair and replacement of personal property is to make reference to the consumer price index. In May, 1964, when the payment limit under the Military Personnel and Civilian Employees' Claims Act was \$10,000, the consumer price index, according to the United States Bureau of Labor Statistics, was 92.7. In May of 1973, the year in which the limit was raised to the present \$15,000, the index had risen to 131.5, an increase of 41.9 percent. As of May 1979, the consumer price index had risen to 214.1, an increase over the May 1973 figure of 61.4 percent. Raising the limit to \$25,000 would serve to maintain the level of protection that was previously considered appropriate for this type of property by the Congress.

The legislation also proposes a new subsection that would provide added protection to those covered by the Act who have been ordered to evacuate an area in a foreign country because of reasons creating imminent danger to their lives. For property lost, damaged or abandoned

in situations that lead competent authority to order evacuation, a \$35,000 ceiling on compensable claims would apply to a settlement for the depreciated value of the lost, damaged or abandoned personal property.

American citizens overseas are generally unable to obtain insurance to cover the risks which would give rise to an order for evacuation. Insurance coverage for damages arising from riot, civil disorder, or acts of war, is not readily available. If obtainable, an extremely high premium is demanded. Furthermore, coverage for personal property abandoned in foreign countries by evacuees is virtually unobtainable.

The most recent situation in which military and civilian personnel were faced with a risk covered by the proposed legislation was the evacuation from Iran. These individuals had been encouraged to bring full weight allowances of personal property with them to Iran in light of the generally difficult living conditions existing in that country. While some of these individuals left Iran with virtually all of their belongings, others were only able to get a 1000 pound shipment out of the country, and still others left with only one suitcase per evacuee. Many of these individuals had purchased private insurance on their personal belongings, but were later informed that their insurance did not cover riot damages or abandoned property.

This legislation proposes that the provision relating to emergency evacuations be made retroactive to claims which occur after December 31, 1978, in order to cover the evacuation from Iran.

#### COST AND BUDGET DATA

This Department is not in a position to estimate the additional cost to the Government as a whole which would result from the passage of the proposed legislation. Based on past experience, the projected added cost to the Department of Defense of increasing the regular limit on claims payments for military personnel and civilian employees to \$25,000 would range between \$280,000 and \$440,000 annually over the next five fiscal years, or a cumulative total of approximately \$1.8 million for that period.

An estimate of the total cost to the Government which would result from the passage of the proposed subsection (g) over the next five fiscal years would be totally speculative. It is estimated, however, that a \$35,000 limitation on the settlement of claims resulting from the recent evacuation of Iran would result in an additional cost of \$291,000 over the sum necessary to satisfy claims within the proposed \$25,000 limitation, and \$582,000 over the current \$15,000 limitation.

The additional costs to this Department that would result from this legislation have not been budgeted in the claims, Defense appropriations for the Department of Defense for either FY 1979 or 1980, but will be absorbed within existing budget authority. However, as much as 80 percent of the claims satisfied with respect to Iran will be reimbursed from the Iranian Foreign-Military Sales Trust Fund.

Sincerely,

JOSEPH J. F. CLARK,  
*Associate Director,  
Legislative Liaison.*

Attachments.

A BILL To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,* That Section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended, 31 U.S.C. 241), is amended as follows:

(1) by striking out "\$15,000" in subsection (a) (1) and inserting in place thereof "\$25,000";

(2) by striking out "\$15,000" in subsection (b) (1) and inserting in place thereof "\$25,000"; and

(3) by inserting the following new subsection:

"(g) Notwithstanding the monetary limitation imposed in subsection (a) (1) and (b) (1), or any other provision of law, and subject to any policies the President may prescribe, the Secretary of a military department, the Secretary of Transportation with respect to the Coast Guard when it is not operating as part of the Navy, the Secretary of Defense, or the head of any other agency or his designee may, under such regulations as he may prescribe, settle and pay a claim against the United States for not more than \$35,000 made by a member of the uniformed services or by a civilian officer or employee under the jurisdiction of the department, agency, or the Coast Guard, concerned, for damage to, or loss of, personal property incident to service outside the United States and possessions or trust territory of the United States, when competent authority orders evacuation for reasons which create imminent danger to the life or lives of the member, officer, or employee, or his dependents or immediate family, as the case may be. Claims arising from damage to, or loss of, personal property incident to service under this subsection shall include such claims for damage or loss as arise in circumstances which competent authority determine precipitated an order of evacuation."

SEC. 2. (1) The amendment provided in sections 1(1) and 1(2) of this Act shall apply to claims based upon damage to, or loss of, personal property which occurs after the date of the enactment. (2) The amendment provided in section 1(3) of this Act shall apply to claims based upon damage to, or loss of, personal property which occurs after December 31, 1978.

#### SECTIONAL ANALYSIS

The bill amends Section 3 of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767, as amended, 31 U.S.C. 241). The authority to settle claims under the Act is broadened.

*Section 1(1).* Subsection (a) (1) of the Act presently authorizes the Secretary of a military department and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as part of the Navy, to issue regulations under which personal property claims for damage or loss incident to service of not more than \$15,000 made by military members and civilian employees subject to the concerned department may be settled. Under the proposed legislation, the amount of settlement authority is increased to \$25,000 for claims which occur after December 31, 1978.

*Section 1(2).* Subsection (b) (1) of the Act presently authorizes the head of an agency not covered in subsection (a) (1) of the Act to issue regulations, subject to policies of the President, under which personal property claims for damage or loss incident to service of not more than \$15,000 made by military members and civilian employees subject to the concerned agency may be settled. Under the proposed legislation, the amount of settlement authority is increased to \$25,000 for claims which occur after December 31, 1978.

*Section 1(3)* proposes a new subsection to the Act. The new provision applies to personal property claims made by personnel covered under subsections (a) (1) and (b) (1) of the Act that arise outside the United States after December 31, 1978. With respect to these claims, the monetary limitation on settlement is \$35,000 if such claims arise during an evacuation ordered by competent authority, or during the events leading up to an order for evacuation, for reasons such as civil insurrection, riot, or war, which create imminent danger to the life or lives of covered personnel or their dependents or immediate family.

*Section 2.* The evacuation provision takes effect upon enactment and applies to claims that arise, and that have arisen, after December 31, 1978. The amendment raising the limit on the payment of claims from \$15,000 to \$25,000 apply to claims based upon damage to, or loss of, personal property which occurs after the date of enactment.